

FILED

OCT 15 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISIONU.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

4:19M CO 0772 FRB

IN RE: SUBPOENA

Case No.

FILED UNDER SEAL**APPLICATION FOR ORDER COMMANDING GITHUB, INC. NOT TO NOTIFY ANY
PERSON OF THE EXISTENCE OF A SUBPOENA**

COMES NOW the United States of America, by and through its attorneys, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Matthew T. Drake, Assistant United States Attorney for said District, and requests that this Court order GitHub, Inc., hereinafter "the Service Provider") not to notify any person (including the subscribers or customers of the account(s) listed in the attached subpoena) until the conditions identified herein are met, concerning the following users account:

5star.designstudio2018@gmail.com

As grounds the Government states as follows:

1. The Service Provider is a provider of an electronic communication service, as defined in Title 18, U.S.C., Section 2510(15), and/or a remote computing service, as defined in Title 18, U.S.C., 2711(2). Pursuant to Title 18, U.S.C., Section 2703, the United States intends to serve the attached subpoena. Pursuant to Title 18, U.S.C., Section 2703(c)(3), the Government or agency receiving these records or information as a result of the subpoena will not provide notice to the subscriber or customer of the aforementioned account(s).

2. This Court has authority under Title 18, U.S.C., Section 2705(b) to issue "an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems

appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.” *Id.*

3. In this case, such an order is appropriate because the subpoena was issued in part under the authority granted to this court pursuant to Title 18, U.S.C., Section 2703. This subpoena is related to an ongoing criminal investigation that is not public and this portion of the investigation is not known to the subjects of the investigation. Premature notification may alert the subject(s) to the investigation. Some of the evidence in this investigation is stored electronically. If the subjects were notified about the subpoena for the accounts referenced in this order, the subjects could destroy evidence in other accounts they are using but of which the Government is not aware at this time, including information saved in other electronic storage media. Accordingly, there is reason to believe that notification of the existence of the subpoena will seriously jeopardize the investigation, including giving the subjects an opportunity to: flee, destroy and/or tamper with evidence; change patterns of behavior; or notify confederates. *See* Title 18, U.S.C., Section 2705(b)(2), (3), and (5).

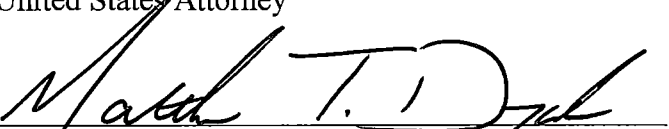
WHEREFORE, the United States respectfully requests, pursuant to Title 18, U.S.C., Section 2705(b), that the Court grant the attached Order directing the Service Provider not to disclose the existence or content of this Application, the attached subpoena and any Order issued, for a period of one year from the date of the Order, except that the Service Provider may disclose the attached subpoena and any Order to an attorney for the Service Provider for the purpose of receiving legal advice.

The United States further requests that the Court order that this Application, attached subpoena, and any resulting Order be sealed until further Order of the Court. As explained above,

there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,

JEFFREY B. JENSEN
United States Attorney


MATTHEW T. DRAKE
Assistant United States Attorney

Dated this 15th day of October, 2019.